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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,189	03/10/2005	Juan Jose Arsuaga Eguizabal	2005_0322A	1115
513	7590	11/29/2006	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			ELKINS, GARY E	
			ART UNIT	PAPER NUMBER
			3782	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/527,189

Applicant(s)

ARSUAGA EGUIZABAL, JUAN JOSE

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20050310, 20050526</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 5-7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 06 September 2006.

### *Claim Rejections - 35 USC § 112*

2. Claims 1-4, 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the preamble of each claim, “like those used to transport and distribute seed-like, powder-like or liquid goods” is unclear in scope with respect to what is being claimed.

In each of the dependent claims, “as described” is unclear insofar as the claims are not providing a description, but rather define the metes and bounds of protection being sought by the Applicant.

Throughout the claims, “it” and “its” are unclear with respect to the previous element(s) being referred to.

The following each lack antecedent basis in the claims: claim 1, lines 3 and 4, “its side and bottom”, “the fact”, “its upper corners” and “the usual transversal closing sealing line”, claim 2, line 2, “the fact”, claim 3, lines 2 and 4-6, “the fact”, “the glue laid on some areas of the carton”, “the pouch’s pour pipe area” (no “pour pipe area” previously set forth in the claims), “the carton’s pour spout area” and “the distributing position”, claim 4, lines 2-5, “the fact”, “the flap”, “the pour spout”, “the opening and closing device” and “the closure”, claim 8, lines 2-6,

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“the fact”, “the contents”, “the glue laid on some areas of the carton”, “the carton’s pour spout area” and “the distributing position” and claim 9, lines 2-4, “the fact”, “the flap”, “the opening and closing device” and “the closure”.

In claim 1, line 5, the dashes located at the beginning and end of the phrase “or a vertical double width sealing line” are unclear grammatically. If the phrase is being added to the claim, it should have been underlined. Also, the dash in each of claim 3, line 4 and claim 8, line 3 is unclear grammatically.

In claim 1, lines 4 and 5, “the usual transversal closing sealing line” is unclear in scope with respect to what is “usual” and what is not.

The following are each a double inclusion of an element, i.e. each element is being reintroduced into the claims: claim 3, lines 4 and 5 and claim 8, lines 3 and 4, “pouch and carton” (four occurrences).

In each of claims 4 and 9, line 4, “they” is unclear with respect to the previous elements referred to.

In each of claims 4 and 9, “whatever the opening and closing device” is unclear with respect to whether an opening and closing device is being claimed or not. The term “whatever” is narrative in form.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claim 1, as best understood in view of paragraph 2 above, is rejected under 35 U.S.C. 102(b) as being anticipated by any one of Imer (fig. 10 emb), Olin (fig. 16 emb), Patelli (fig. 2 emb), Lippincott or Dorfman. Each of Imer, Olin, Patelli, Lippincott and Dorfman discloses a pouch including a flexible pour pipe (10; 32; 9; 22; 12, respectively) formed by two vertical seals on each side of the pour pipe and a cut formed in the middle of the seals or in the middle of the pouch on one side of the pour pipe.

5. Claims 1, 2 and 4, as best understood in view of paragraph 2 above, are rejected under 35 U.S.C. 102(b) as being anticipated by Heuberger et al. Heuberger et al discloses a pouch bonded within a carton and including a pour pipe formed by tearing a cut 19 formed in the middle of a double seal. The pour pipe in Heuberger et al is bonded to the overlying closure flap as claimed.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-4, 8 and 9, as best understood in view of paragraph 2 above, are rejected under 35 U.S.C. 103(a) as being unpatentable over St. Pierre et al or Wagner et al, each in view of any one of Imer (fig. 10 emb), Olin (fig. 16 emb), Patelli (fig. 2 emb), Lippincott or Dorfman. Each of Pierre et al and Wagner et al discloses a carton including an inner bag bonded to the carton along the interior and along a pour spout in the carton. Each of Pierre et al and Wagner fails to disclose a pour pipe including two vertical sealing lines and a vertical cut in the middle. Each of Imer, Olin, Patelli, Lippincott and Dorfman teaches that it is known to make a dispensing bag

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with pour pipe extendable from the bag to direct the flow of liquid from the bag. It would have been obvious to substitute a bag with a pour pipe for the dispensing bag in either St. Pierre et al or Wagner et al as taught by any one of Imer, Olin, Patelli, Lippincott or Dorfman to provide a more guided flow of content from the carton through the closure/pour spout.

### *Conclusion*

It is noted that reference AA set forth on the IDS filed 26 May 2005 has been lined through insofar as this reference was previously cited in the IDS filed 10 March 2005.

The remaining cited prior art is illustrative of the general state of the art.

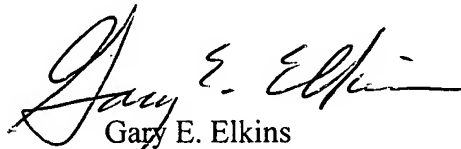
In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.

  
Gary E. Elkins  
Primary Examiner  
Art Unit 3727

gee  
27 November 2006